

Message Text

SECRET

PAGE 01 GENEVA 07677 01 OF 02 181830Z
ACTION SS-25

INFO OCT-01 ISO-00 SSO-00 NSCE-00 DODE-00 CIAE-00
INRE-00 ACDE-00 DOEE-00 /026 W
-----020515 181832Z /43
O 181812Z MAY 78
FM USMISSION GENEVA
TO SECSTATE WASHDC IMMEDIATE 9819
INFO AMEMBASSY LONDON PRIORITY
AMEMBASSY MOSCOW PRIORITY

S E C R E T SECTION 01 OF 02 GENEVA 07677

EXDIS USCTB

PASS TO DOE

E.O.11652:YGDS-3
TAGS: PARM US UK UR
SUBJECT: CTB NEGOTIATIONS: POLITICAL WORKING GROUP MEETING
MAY 17, 1978

CTB MESSAGE NO.212

1. SUMMARY: MEETING OF POLITICAL WORKING GROUP ON MAY 17
DISCUSSED AGREED UNDERSTANDING AND BEGAN COMPARISON OF
ILLUSTRATIVE TEXTS ON OSI REQUESTS. SOVIET REP
(TIMERBAEV) ASKED SERIES OF QUESTIONS CONCERNING PURPOSE,
NECESSITY, AND POSSIBLE IMPACT OF AGREED UNDERSTANDING.
US REP (NEIDLE) EXPLAINED RATIONALE FOR AGREED UNDERG.
STANDING AND WHY IT WAS ESSENTIAL FOR US IN CONTEXT OF
OSI BASED ON VOLUNTARINESS. END SUMMARY.

2. AT MAY 17 MEETING OF POLITICAL WORKING GROUP MEETING,
SOVIET REP (TIMERBAEV) ASKED A NUMBER OF QUESTIONS ON
AGREED UNDERSTANDING, NOTING THAT HE WAS AWARE OF THE
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SECRET

PAGE 02 GENEVA 07677 01 OF 02 181830Z

IMPORTANCE THE US ATTACHES TO IT. HE SAID THAT, AS HE
UNDERSTOOD IT, THE POINT OF THE AGREED UNDERSTANDING WAS
TO MAKE CLEAR THAT, JUST AS ON THE ONE HAND THERE SHOULD
NOT BE UNJUSTIFIED OR IRRESPONSIBLE OSI REQUESTS, THERE
SHOULD NOT BE UNJUSTIFIED OR UNSUBSTANTIATED REFUSALS;
FURTHER, THAT THE PRINCIPLE OF VOLUNTARINESS WHICH US
HAD AGREED COULD BE BASIS FOR OSIS SHOULD BE BALANCED BY

PRINCIPLE THAT OSI REQUESTS SHOULD NOT BE REJECTED IN AN ARBITRARY MANNER. US REP (NEIDLE) CONFIRMED THAT THIS CONCEPT WAS CORRECT. SOV REP INDICATED THAT THIS WAS SATISFACTORY RESPONSE.

3. SOVIET REP THEN ASKED WHETHER AGREED UNDERSTANDING WAS NOT LEGALLY SUPERFLUOUS SINCE (1) THE SEPARATE AGREEMENT WOULD SPECIFY THAT REJECTION OF AN OSI REQUEST BE ACCOMPANIED BY DETAILED REASONS AND (2) THE TREATY WOULD PROVIDE FOR WITHDRAWAL BY A PARTY IF IT BELIEVED EXTRA-ORDINARY EVENTS RELATED TO THE SUBJECT MATTER OF THE TREATY JEOPARDIZED ITS SUPREME NATIONAL INTERESTS.

4. US REP EXPLAINED THAT THE AGREED UNDERSTANDING WAS IMPORTANT POLITICALLY EVEN IF IT MIGHT NOT BE NECESSARY FROM A STRICTLY LEGAL POINT OF VIEW. IT WAS NOT DESIGNED TO INTERPRET OR CHANGE OR OTHERWISE MAKE UP FOR A DEFICIENCY IN THE TREATY, BUT WAS RATHER A POLITICAL DOCUMENT RECORDING THE COMMON UNDERSTANDING OF THE PARTIES AS TO HOW THE TREATY WOULD WORK AND HOW THEY INTENDED TO IMPLEMENT IT. THERE WAS A NEED FOR SUCH AN UNDERSTANDING PRECISELY BECAUSE OF THE VOLUNTARY NON-MANDATORY NATURE OF THE OSI PROCESS SINCE REFUSAL OF AN OSI REQUEST WOULD NOT PER SE BE A VIOLATION OF THE AGREEMENT. THE RIGHT OF A PARTY TO REFUSE AN OSI MADE NECESSARY SOME EXPLICIT COMMON UNDERSTANDING THAT THESE REFUSALS MUST NOT BE
SECRET

SECRET

PAGE 03 GENEVA 07677 01 OF 02 181830Z

ARBITRARY AND THAT THE PARTIES HAVE A COMMON UNDERSTANDING OF WHAT THE CONSEQUENCES COULD BE IF THEY WERE. THIS WOULD BE HELPFUL IN PROMOTING PUBLIC CONFIDENCE IN TREATY COMPLIANCE.

5. IN HIS LAST QUESTION, SOV REP ASKED WHY THE AGREED UNDERSTANDING SHOULD PROVIDE PROTECTION AGAINST ARBITRARY REFUSALS BUT NOT AGAINST A PATTERN OF ARBITRARY REQUESTS. HE COMMENTED THAT THIS WAS UNBALANCED, BUT SAID HIS REAL CONCERN WAS ABOUT THE THEORETICAL POSSIBILITY OF A PARTY WISHING TO WITHDRAW FROM THE TREATY AND BURDENING THE OTHER PARTY WITH A SERIES OF UNJUSTIFIED REQUESTS, THEREBY CREATING A PATTERN OF REFUSALS, WHICH, HOWEVER JUSTIFIED, WOULD PROVIDE A PRETEXT FOR WITHDRAWAL. US REP RESPONDED THAT REQUESTS AND REFUSALS WERE NOT REALLY EQUIVALENT. A SERIES OF ARBITRARY REFUSALS COULD LOGICALLY BE INTERPRETED TO MEAN THAT THE PARTY REFUSING THE OSI REQUESTS HAD SOMETHING TO HIDE -- THAT IS, THAT IT WAS VIOLATING THE TREATY -- AND THIS WOULD BE A SITUATION WHICH WOULD RAISE A GENUINE QUESTION OF NATIONAL SECURITY AND OF WITHDRAWAL. A PATTERN OF ARBITRARY REQUESTS ON THE OTHER HAND, CARRIED NO SUCH

IMPLICATION FOR THE NATIONAL SECURITY OF THE PARTY RECEIVING THE REQUESTS. IN ANY EVENT, A PARTY FEELING THE NEED TO WITHDRAW COULD PRESUMABLY FIND SIMPLER AND LESS CUMBERSOME WAYS OF DOING SO THAN BY USING THE AGREED UNDERSTANDING AS A PRETEXT.

6. SOV REP SAID HIS DELEGATION WOULD STUDY THE ISSUE OF THE AGREED UNDERSTANDING FURTHER IN LIGHT OF THE DISCUSSION AND WOULD RETURN TO THE SUBJECT.

7. MEETING THEN TURNED TO DISCUSSION AND COMPARISON OF

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PAGE 01 GENEVA 07677 02 OF 02 181829Z

ACTION SS-25

INFO OCT-01 ISO-00 SSO-00 NSCE-00 DODE-00 CIAE-00

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S E C R E T SECTION 02 OF 02 GENEVA 07677

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US AND SOVIET ILLUSTRATIVE LANGUAGE ON OSI REQUESTS, BUT DID NOT GET VERY FAR THROUGH THE TEXTS. DISCUSSIONS WILL BE CONTINUED AT NEXT MEETING AND WE WILL REPORT STATE OF PROGRESS. WARNKE

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Message Attributes

Automatic Decaptioning: Z
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: AGREEMENT DRAFT, LIMITED TEST BAN TREATY, NEGOTIATIONS, MEETINGS, GOVERNMENT REACTIONS
Control Number: n/a
Copy: SINGLE
Draft Date: 18 may 1978
Decaption Date: 20 Mar 2014
Decaption Note: 25 YEAR REVIEW
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978GENEVA07677
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: X3
Errors: N/A
Expiration:
Film Number: D780209-1162
Format: TEL
From: GENEVA
Handling Restrictions:
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t19780546/aaaabmob.tel
Line Count: 159
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 26d0309b-c288-dd11-92da-001cc4696bcc
Office: ACTION SS
Original Classification: SECRET
Original Handling Restrictions: EXDIS
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: SECRET
Previous Handling Restrictions: EXDIS
Reference: n/a
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 27 jun 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2654394
Secure: OPEN
Status: NATIVE
Subject: CTB NEGOTIATIONS: POLITICAL WORKING GROUP MEETING MAY 17, 1978 CTB MESSAGE NO.212
TAGS: PARM, US, UK, UR
To: STATE
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/26d0309b-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014